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From:

Sent: Thursday, January 13, 2011 8:52:59 AM

To:

Cc:

Subject: RE: Court designation of Liquidating Trustee with authority similar to TMP

A liquidating trustee for a partnership would not be the Tax Matters Partner under section 6231(a)(7). The trustee only has power over the partnership assets. The TMP, on the other hand, must be properly designated in accordance with the regulations and is the representative of the partners in a TEFRA partnership proceeding. The partnership is typically not a party to the TEFRA partnership proceeding since it generally has no income tax liability of its own. See Chef's Choice v. Commissioner (partnership not a party to the TEFRA proceeding) and American Principles Leasing (partnership bankruptcy proceeding does not concern the tax liabilities of the partners at issue in a separate TEFRA partnership proceeding).

[REDACTED] As you note, we can allow the loss in the year that you have determined it is properly allowable pursuant to the existing proceeding for that year.